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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,720	03/29/2001	Henry Tien Lo	L37-053	5984

7590 01/07/2005

HENRY TIEN LO
5010 INDIAM RIVER DR.
APARTMENT 32
LAS VEGAS, NV 89103

EXAMINER

LAYNO, BENJAMIN

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 01/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

8v

Office Action Summary	Application No. 09/823,720	Applicant(s) LO, HENRY TIEN	
	Examiner Benjamin H. Layno	Art Unit 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Terminal Disclaimer

1. The Terminal Disclaimer filed 10/28/04 cannot overcome the Lo 042' reference because the Lo 042' reference was issued as a patent on 01/26/99 which is more than one year prior to the effective filing date of 03/30/00 of this Application, and thus the Lo 042' reference is a statutory bar under 35 USC 102(b). Furthermore, the continuing data in this Application does not show co-pendency to the Lo 042' reference. See MPEP 706.02.

2. Applicant's arguments filed 10/28/04 have been fully considered but they are not persuasive.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1-4 and 6-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wirth in view of Lo 042'.

The Applicant is referred to the teachings of Wirth and Lo 042' in the first Office action.

The Applicant has argued that Wirth discloses a draw poker game, while the present invention is a stud poker game. The Examiner takes the position that there are no steps recited in the claims distinguishing the claimed invention as a stud poker game.

The Applicant has also argued that the settling of wagers in Wirth's game is different than the settling of wager in the present invention. The Examiner takes the position that how the wagers are settled, is simply a casino house decision that is always obvious in the art.

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wirth in view of Lo 042' as applied to claim 1 above, and further in view of Perkins.

The Applicant is referred to the teaching of Perkins in the first Office action.

The Applicant has argued that including one or more community cards in a card game would make Wirth's game less exciting to play, the more community cards use the fewer cards available for players to read. The Examiner takes the position that by providing community cards to Wirth's game, less cards would have been dealt, shortening game playing time, and increasing the number of games played over a specific time period. Thus, community cards in Wirth's game would increase casino revenue.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 5 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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8. Claim 5 recites the limitation "the community card or cards" in line 3. There is insufficient antecedent basis for this limitation in the claim. There is no step in claim 1 or in claim 5 introducing a step of dealing community card or cards.

9. Claim 17 recites the limitation "the predetermined Player losing copy hands" in line 2. There is insufficient antecedent basis for this limitation in the claim. There is no step in claim 1 or in claim 17 introducing a step defining a losing copy hand.

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin H. Layno whose telephone number is (571) 272-4424. The examiner can normally be reached on Monday-Friday, 1st Friday Off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on (571)272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Benjamin H. Layno
Primary Examiner
Art Unit 3711

bhl